IN THE DRAWINGS:

Formal drawings have been previously submitted.

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REMARKS

In response to the Examiner's Office Action of July 18, 2006, Applicants now present the following remarks in response to Examiner's considerations.

In regard to Examiner's statements regarding the Abstract of the Disclosure, the Abstract has now been amended in order to eliminate the title of the application. The title of the application will now only appear at the top of the first page of the specification.

Various informalities noted in spelling inconsistencies in claims 3, 12, 8, and 1 have now been taken care of in order to maintain proper consistency and spelling of items. It is regretted in claim 9 that the word "where" did not fully print itself out on Examiner's copy, and this has been corrected.

Regarding the Examiner's claim rejections under 35 USC Article 112 for indefiniteness, Applicants have now amended the claims to more particularly specify the subject matter, and also to remove any references or use of the word "it", or "its".

Examiner's citation of insufficient antecedents in claim 1, claim 5 and claim 9 have now been considered so that added language has been provided to overcome a lack of antecedent basis.

As the Examiner indicated, the cited reference to Hart (US 6,983,295 B1) has a common assignee to the Unisys Corporation. Likewise the instant application is also assigned to

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Unisys Corporation.   Since the instant invention has multiple inventors and the cited reference invention has one inventor (Hart), the Examiner contends that the present application does not have common inventorship, since only one inventor, Hart, is common to both applications.

Pursuant to section 4807 of the new American Inventor Protection Act, a U.S. Patent which qualifies as prior art only under one or more of Section 102 (e), (f), or (g) cannot be used in an obviousness challenge against the claims of an Application or Patent. See American Inventors Protection Act of 1999, publication L, No. 106-113, article 4807, 113 Stat. 1501, 1501 A-591 (1999).

This provision applies to applications filed on or after November 29, 1999. Thus, Section 102(e) according to the Examiner, apparently has been adjudicated to mean not "common ownership" but rather the same group of inventors, i.e. "common inventorship".   On this basis, Examiner contends that Hart (6,983,295 B1) constitutes prior art. This also is indicated at MPEP 706.02(f), as being prior art if the inventors are not exactly the same.

> However, as will be indicated, the cited Hart reference does not teach the elements of a verification program nor a checksum verification of each data block in the quiesce' database copy.

Examiner has rejected claims 1 - 12 under 35 USC 102(e) as being anticipated by the Hart patent 6,983,295. However, as per the American Inventor Protection Act as cited below, the

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factor of common ownership would normally preclude the use of this reference except for the interpretation as to common inventorship.

Applicants would now traverse Examiner's contention that the cited Hart reference teaches the claimed method for verification of a quiesced database copy of a primary database.

At this point Applicants would like to particularize and focus Examiner's contentions about the Hart reference in regard to various clauses of Applicant's claims to which the Examiner has cited portions of the Hart reference, but which will be seen to be inoperative in teaching Applicants' claims.

Applicants will now focus on certain aspects of Applicant's claims which are not taught by or which cannot be imputed from the Hart reference.

Now, referring to Applicants' original claim 1 clause (c) --- utilizing a verify option in a database utility program to check said quiesced database copy for integrity ---

> Here the Examiner has cited the Hart reference, column 13 lines 16 - 27, lines 65 - 67, and column 14 lines 1 - 14.

>> There is nothing in these cited lines of Hart which would indicate the use of a <u>Verify option</u> except for a broad statement at column 14, lines 5 and 6 which states ---- the verification of a database copy (D2) is then performed by the program designated DMUTILITY.

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This broad generalized statement is not a specific teaching of the operations which are indicated in Applicants' claims, especially as now amended.

Likewise in Applicants' claim 1 clause (d) --- utilizing a Verify Tasks option to control said number of independent tasks assigned to perform said check of said quiesced database copy for integrity ---

Here the Examiner has cited the Hart reference column 4, lines 50 - 56 where Hart indicates that the duplicate is called a Business Continuation Volume (BCV). There is no teaching in Hart of the Verify Task option to control a number of independent tasks assigned to perform the check for integrity. See Applicants' Figs. 5 and 6 regarding use of task assignments.

Likewise further on Applicants' claim 1 clause (d), Examiner cites the Hart column 13 lines 16 - 27, and column 14, lines 1 -14 which make a generalized statement that a mirrored copy can be split off from its source copy in order to offload database activities for accomplishment, such as backup, certification, and data warehousing. There is no teaching of the Verify Tasks option.

Further, in regard to Applicants' claim 1 clauses (c) and (d), the Examiner contends that in claim 14 lines 1 - 14 that Hart teaches the Verify Tasks option. This is certainly not the case. Hart has a mere "generalized" statement that the verification of the database copy (D2) is performed by the program designated DMUTILITY.

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This generalized statement certainly does not teach the various aspects of the verification program as is phrased and delineated in Applicants' claims 1 - 12, and shown in Figs. 5 and 6.

Now looking at Applicants' claim 1 clause (c) as amended, it should be noted that there are specific steps which involve --- clause (c1) for checking each row in quiesced database copy to perform a checksum verification and --- then also the clause (c2) checking each row in said quiesced database copy to perform an address check verification.

These specific tasks cannot be seen to be taught in any way by the prior Hart reference.

Now looking at Applicants' amended claim 5 and especially clause (c), it can be seen that the verification of data integrity involves (c1) means to execute a checksum verification of each data block in said database copy and also (c2) means to perform an address check operation on each data block in said quiesced database copy.

It should be noted that these detailed steps on the verification operation are not taught by the cited portions of the Hart reference which the Examiner has indicated as being shown in the Hart column 13 lines 16 - 27, column 13 lines 65 - 67, and column 14 lines 1 - 14 ---

This is not a sufficient teaching in Hart which would specify and indicate the specific operations of the presently-amended claim 5.

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Further notation should be made of Applicant's original claim 9 which specifies greater detailed operations of clause (c) of claim 5. It should be noted that verification is supplied for each selected <u>data block</u> (Fig. 3) in the quiesced database copy in addition to the sequence (Fig. 5) for <u>accessing an assignment</u> table showing tasks needed to apply verification procedures.

Of course there is no teaching in the cited Hart reference which can delineate such operations as seen in Applicants' Figs. 5 and 6.

Applicants' original claims 10, 11, 12 give further specificity to claim 9 to indicate various specific steps required in the function of verifying data integrity. These functions (of verifying quiescence, accessing a Task assignment, reading each row in the database file, showing completion of each Task assignment etc.) ---- are certainly not shown or taught in any of the cited portions of the Hart reference which the Examiner has cited.

In regard to the concept of "anticipation" under 35 USC 102, there are certain considerations and restrictions which should be noted by the Examiner in regard to the established law in the field of patentability.

Initially some of the applicable law under 35 U.S.C. article 102 will be briefly summarized to indicate what is required to sustain a rejection.

It is well established that "A claim is anticipated under 35 U.S.C. 102(b) only <u>if each and every element</u> as set forth in the claim is found, either expressly or inherently described, in a single prior art

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reference". Verdegaal Bros. V. Union Oil Co. of California, 814 F2d 628, 631 2 USPQ 2d1051, 1053 (Fed. Cir. 1987) (see also MPEP 2131).

Additionally, with regard to "inherency", it was held in the CAFC decision, Trintec Industries, Inc. V. Top-U.S.A. Corp. (CAFC 7/2/02) that "Inherent anticipation requires that the <u>missing descriptive material is 'necessarily present', not merely probably or possibly present,</u> in the prior art." In re Robertson, 169, F, 3d 743, 745 49 USPQ 2d 1949, 1950-51 (Fed. Cir. 1999).(underlines added)

Still further, the fact that a certain result or characteristic may occur or be present in the prior art is <u>not sufficient</u> to establish the inherency of that result or characteristic. In re Rijackaert, 9F.3d, 51, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

> "In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. Ex parte Levy, 17 USPQ$_{2nd}$ 1461, 1464 (Bd. Pat. Ap. & Inter. 1990) (emphasis in original). (Also see MPEP 2112).

In view of the factors involved in Applicants' claims where it is seen that the prior cited reference (Hart) does <u>not</u> indicate <u>each and every single element</u> set forth in Applicant's

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claims and since further there is no inherent anticipation to be concluded from Hart since the missing descriptive material is not present in the cited reference. Thus, it should be understood that Applicants' claims are separate and individual and stand on their own and should be considered as a whole in their entity.

In this regard it is now requested the Examiner consider the overall substance of Applicants' claims for the verification process of the quiesced database copy and understand that these factors involved could not have been taught from the prior art reference to Hart.

It is now respectfully requested the Examiner provide a timely Notice of Allowance for the existing claims.

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Respectfully submitted,

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